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10/005,399	12/05/2001	David E. Petersen	120362(624226-322)	9413
29391	7590	03/16/2005	EXAMINER	
BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.			NGUYEN, HUNG T	
390 NORTH ORANGE AVENUE			ART UNIT	
SUITE 2500			PAPER NUMBER	
ORLANDO, FL 32801			2636	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/005,399

Applicant(s)

PETERSEN ET AL.

Examiner

Hung T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5 and 9 is/are allowed.
- 6) ☒ Claim(s) 6-8, 10 and 14 is/are rejected.
- 7) ☒ Claim(s) 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. An Appeal brief filed on Oct. 20, 2004 have been considered in the following:

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orschek (U.S. 5,394,137).

Regarding claim 10, Orschek discloses a device for detecting the position of rail vehicle hand brake (10) [ figs.1-3, col.2, lines 4-12 , col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ] comprising:

- a circuit includes detector (50a,50b) as a switch for detecting a brake is not fully released [ figs.1-3, col.3, line 23 to col.4, line 8 ];
- an alarm signal (54,56) is activated to inform an operator cab (14) that the brake is not fully released [ figs.1-3, col.2, lines 4-12 , col.3, line 65 to col.4, line 18 and col.5, line 43 to col.6, line 6 ];
- a hand brake position (42) alarm responsive to the alarm signal (30,54,56) [ figs.1-3, col.3, line 23 to col.4, line 18 ].

Orschek does not specifically mention a load path for supporting a weight of the drive chain by passing the switch as claimed by the applicant.

However, Orschek clearly discloses the parking brake detection (42) and warning system (30) which are couple to an electronic controller (52) may provide audible (56) and visual warning indicators (54) substantially prevents an operator of a rail vehicle from unnecessarily wearing down the parking brake system for locomotives at all time operating [ figs.1-3, col.2, lines 4-12 , col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ]; and

- a cable or chain linkage can be used for actuating a parking brake by hand [ col.1, lines 11-24 ].

Furthermore, in the background of the present invention, the prior art also teaches a function of the switch (30) must support the weight of at least a portion of chain (18) when the hand brake system is engaged is cited in fig.1, page 3, lines 16-22.

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching in the prior art in the system of Orschek for monitoring controlling a hand brake position alarm at all time as the weight of the chain imposes mechanical loads which can damage the switch.

Regarding claim 14, Orschek discloses a device for detecting the position of rail vehicle hand brake (10) [ figs.1-3, col.2, lines 4-12 , col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ] comprising:

- a circuit includes detector (50a,50b) as a switch for detecting a brake is not fully released [ figs.1-3, col.3, line 23 to col.4, line 8 ];

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- an alarm signal (54,56) is activated to inform an operator cab (14) that the brake is not fully released [ figs.1-3, col.2, lines 4-12 , col.3, line 65 to col.4, line 18 and col.5, line 43 to col.6, line 6 ];
- a hand brake position (42) alarm responsive to the alarm signal (30,54,56) [ figs.1-3, col.3, line 23 to col.4, line 18 ];

Orschek does not specifically mention a mechanism connecting the switch and the drive chain without supporting a weight of the drive chain through the switch as claimed by the applicant.

However, Orschek clearly discloses the parking brake detection (42) and warning system (30) which are couple to an electronic controller (52) may provide audible (56) and visual warning indicators (54) substantially prevents an operator of a rail vehicle from unnecessarily wearing down the parking brake system for locomotives at all time operating [ figs.1-3, col.2, lines 4-12 , col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ]; and

- a cable or chain linkage can be used for actuating a parking brake by hand [ col.1, lines 11-24 ]; and

Furthermore, in the background of the present invention, the prior art also teaches a function of the switch (30) must support the weight of at least a portion of chain (18) when the hand brake system is engaged is cited in fig.1, page 3, lines 16-22.

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching in the prior art in the system of Orschek for monitoring controlling a hand brake position alarm at all time as the weight of the chain imposes mechanical loads which can damage the switch.

4. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orschek (U.S. 5,394,137) in view of MacDonnell et al. (U.S. 3,854,417) further in view of Hosaka et al (U.S. 4,962,570).

Regarding claim 6, Orschek discloses a method of alarming a hand brake of a rail vehicle (10) [ figs.1-3, col.2, lines 4-12, col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ] comprising:

- a detector (50a,50b) for detecting a brake is not fully released [ figs.1-3, col.3, line 23 to col.4, line 8 and col.5, line 43 to col.6, line 6 ];
- an alarm signal (54,56) is activated to inform an operator cab (14) that the brake is not fully released [ figs.1-3, col.2, col.3, line 65 to col.4, line 18 and col.5, line 43 to col.6, line 6 ].

Orschek does not specifically disclose the alarm is activated before the rail vehicle is moved with the hand brake engaged.

MacDonnell discloses an automatic visual hand brake system is used in a train of car will be turned on whenever the hand brake is engaged [ figs.1-2, col.1, lines 22-40 and abstract ].

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of MacDonnell in the system of Orschek for immediately detecting / monitoring the hand brake is engaged before the vehicle is moved.

The combination of Orschek & MacDonnell do not specifically mention detecting movement of a master controller reverse of the locomotive to a non neutral position coincident with the hand brake being engaged.

Hosaka teaches a technique of using sensors (42,43) and a control unit (100) for controlling / determining the presence of a reverse gear position at step (4130) in non-neutral position is inherently [ figs.13-14, col.6, line 67 to col.7, line 15 , col.25, line 45 to col.6, line 11 and abstract ].

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Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of MacDonnell & Hosaka includes sensors (42,43) of reverse gear in the system of Orschek for detecting / monitoring the hand brake in reverser position status as desired.

Regarding claims 7-8, Orschek discloses a hand brake alarm apparatus (10) includes a plurality of trucks (16a,16b) as locomotives [ figs.1-3, col.3, lines 11-22 and col.5, line 43 to col.6, line 6 ] comprising:

- a detector (50a,50b) for detecting a brake is not fully released [ figs.1-3, col.3, line 23 to col.4, line 8 and col.5, line 43 to col.6, line 6 ];
- an alarm signal (54,56) is activated to inform an operator cab (14) that the brake is not fully released [ figs.1-3, col.2, col.3, line 65 to col.4, line 18 and col.5, line 43 to col.6, line 6 ].

Orschek & MacDonnell do not specifically mention the apparatus includes wheel slip circuit for monitoring sliding motion of the wheels as to prevent the slip from occurring and to notify that problem to the train operator.

Hosaka teaches a technique of using sensors (42,43) for determining the presence of a slip and generating a slip indicative signal [ figs.13-14, col.6, line 67 to col.7, line 15 , col.25, lines 45-67 and abstract ].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of MacDonnell & Hosaka in the system of Orschek for producing a wheel slippage indicative signal when wheel slip is detected.

***Allowable Subject Matter***

5. Claims 3-5 & 9 are allowed.

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6. Claims 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Arguments & Responses**

7. Applicant's argument filed on Oct. 20, 2004 have been fully considered but they are not persuasive reasons.

#### **Applicant's Arguments:**

A) The applicant states the system of Orschek does not specifically mention a mechanism connecting the switch and the drive chain without supporting a weight of the drive chain through the switch.

B) The references of Orschek, MacDonnell et al. and Hosaka et al. fail to overcome claims 6-8.

#### **Response to the arguments:**

A) The reference of Orschek can be combined with the prior art in the present invention for rejections in the following:



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Orschek clearly discloses the parking brake detection (42) and warning system (30) which are couple to an electronic controller (52) may provide audible (56) and visual warning indicators (54) substantially prevents an operator of a rail vehicle from unnecessarily wearing down the parking brake system for locomotives at all time operating [ figs.1-3, col.2, lines 4-12 , col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ]; and

- a cable or chain linkage can be used for actuating a parking brake by hand [ col.1, lines 11-24 ].

Furthermore, in the background of the present invention, the prior art also teaches a function of the switch (30) must support the weight of at least a portion of chain (18) when the hand brake system is engaged is cited in fig.1, page 3, lines 16-22.

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching in the prior art in the system of Orschek for monitoring controlling a hand brake position alarm at all time as the weight of the chain imposes mechanical loads which can damage the switch.

B) The references of Orschek, MacDonnell et al. and Hosaka et al. can be combined for rejections in the following:

Orschek discloses a method of alarming a hand brake of a rail vehicle (10) [ figs.1-3, col.2, lines 4-12, col.3, lines 23-51 and col.5, line 43 to col.6, line 6 ] comprising:

- a detector (50a,50b) for detecting a brake is not fully released [ figs.1-3, col.3, line 23 to col.4, line 8 and col.5, line 43 to col.6, line 6 ];
- an alarm signal (54,56) is activated to inform an operator cab (14) that the brake is not fully released [ figs.1-3, col.2, col.3, line 65 to col.4, line 18 and col.5, line 43 to col.6, line 6 ].

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Orschek does not specifically disclose the alarm is activated before the rail vehicle is moved with the hand brake engaged.

MacDonnell discloses an automatic visual hand brake system is used in a train of car will be turned on whenever the hand brake is engaged [ figs.1-2, col.1, lines 22-40 and abstract ].

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of MacDonnell in the system of Orschek for immediately detecting / monitoring the hand brake is engaged before the vehicle is moved.

The combination of Orschek & MacDonnell do not specifically mention detecting movement of a master controller reverse of the locomotive to a non neutral position coincident with the hand brake being engaged.

Hosaka teaches a technique of using sensors (42,43) and a control unit (100) for controlling / determining the presence of a reverse gear position at step (4130) in non-neutral position is inherently [ figs.13-14, col.6, line 67 to col.7, line 15 , col.25, line 45 to col.6, line 11 and abstract ].

Therefore, it would have been obvious to one having ordinary skill in the art to have the teaching of MacDonnell & Hosaka includes sensors (42,43) of reverse gear in the system of Orschek for detecting / monitoring the hand brake in reverser position status as desired.

### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Nguyen whose telephone number is (571) 272-2982. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hofsass, Jeffery can be reached on (571) 272-2981. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

A handwritten signature in black ink, appearing to read "Hung T. Nguyen". The signature is written in a cursive, flowing style with a horizontal line extending from the left side of the first letter.

Examiner: Hung T. Nguyen

Date: Mar. 8, 2005